

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

DELWIN MCGEE

PLAINTIFF

VS.

CIVIL ACTION NO. 5:14-cv-90(DCB)(MTP)

DOLGENCORP, LLC

DEFENDANT

ORDER

This cause is before the Court on the defendant Dolgencorp, LLC's Motion in Limine (docket entry 34). Having carefully considered same, the Court finds as follows:

On June 1, 2016, the Court entered an Order continuing the trial date¹ so that the plaintiff's attorney could schedule the deposition of plaintiff's treating physician, Dr. Morteza Shamsnia. The deposition took place on July 6, 2016. On July 12, 2016, the defendant filed its motion in limine, and attached a 50-page transcript of the deposition as well as Dr. Shamsnia's notes from his September 7, 2014, consultation with the plaintiff.

With the trial date one week from today, and no response to the motion yet filed, the Court finds that the trial should be rescheduled yet again. The motion in limine, if granted, could result in the exclusion of Dr. Shamsnia's records and bills from evidence, based on the lack of any testimony by Dr. Shamsnia that his treatment of the plaintiff was causally related to any injury

¹ The trial date was initially continued to July 18, 2016, and subsequently moved to July 20, 2016.

he allegedly suffered at an alleged fall in the defendant's store, and the lack of any testimony by the doctor that the treatment he provided was reasonable or necessary, or that the costs incurred for the treatment provided were reasonable and standard. Furthermore, Dr. Shamsnia stated that he had not made any determination or conclusion regarding the nature and extent of the plaintiff's medical condition, nor the cause of his conditions.

In short, the Court is reluctant to call in a jury with threshold issues of causation yet to be addressed.

Accordingly,

IT IS HEREBY ORDERED that the trial set for July 20, 2016, will be continued until further notice and the Court will await the plaintiff's response to the defendant's motion, and any rebuttal.

SO ORDERED, this the 13th day of July, 2016.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE